

REMARKS

This response is submitted with a request for a one month extension, a Request for Continued Examination and appropriate fees in reply to the Office Action dated December 1, 2006. Claims 1-5 and 11-13 currently stand rejected. Independent claims 1, 11 and 12 have been amended to more particularly distinguish the claimed invention from the cited references. Claims 2-5 and 13 have been amended to either correct informalities or correspond to the amendments to independent claims 1 and 12, respectively. New claims 14 and 15 have been added to further define patentable aspects of the invention. No new matter has been added by the amendment

In light of the amendments and the remarks presented below, Applicants respectfully request reconsideration and allowance of all now-pending claims of the present application.

Claim Rejections

Claims 1-4 and 11-13 currently stand rejected under 35 U.S.C. §102(e), as being anticipated by Wiser et al. (U.S. Patent No. 6,385,596, hereinafter "Wiser"). Claim 5 currently stands rejected under 35 U.S.C. §103(a) as being unpatentable over Wiser.

While Applicants still maintain that Wiser fails to teach or suggest the previously recited features of independent claims 1, 11 and 12 for the reasons stated in Applicants' prior response, Applicants have amended the claimed invention to further prosecution at this time. Accordingly, the present amendments do not constitute an admission with respect to the points at issue in connection with previous responses. Independent claim 1 has been amended to recite, *inter alia*, identifying one digital music file among a plurality of digital music files such that the identified digital music file is selected based on having a greater number of other digital music files having two or more of a same name, size and playing time as the identified digital music file than other music files related to the digital music file illegally distributed through the computer communication network. Meanwhile independent claims 11 and 12 have been amended to recite, *inter alia*, identifying a digital music file determined to have a higher probability of being reproduced by another user than other music files related to a digital music file illegally distributed through the computer communication network. In other words, independent claims

11 and 12 generally provide that the advertising digital music file may be created based on an illegally distributed file that is most likely to be shared via the network and, as further provided in independent claim 1, the file to be modified to produce the advertising digital music file may be selected as one file among a large group of substantially identical other files where the group of substantially identical files represents a version of the file having greater numbers than other versions.

Wiser is directed to a secure online music distribution system (col. 3, lines 5-10). In order to provide such security, Wiser discloses that an encrypted version of a song, which is a high fidelity audio image, is provided to be purchased (col. 3, lines 54-55). For publicity purposes, Wiser also discloses that lower quality "clips" are also available for free to assist the customer in deciding whether to buy the song (col. 3, lines 58-61). However, as an initial matter, Wiser fails to teach or suggest identifying a file via a network in order to, for example, deteriorate the sound quality of the collected file to produce an advertising digital file. Rather, the music distribution system of Wiser relates to original distribution of files. Additionally, and necessarily, Wiser also fails to teach or suggest identifying a file determined to have a higher probability of being reproduced by another user or having a greater number of other digital music files having two or more of a same name, size and playing time as recited in respective independent claims of the present application.

Accordingly, Wiser fails to teach or suggest at least the above recited features of independent claims 1, 11 and 12. Thus, independent claims 1, 11 and 12 are patentable and non-obvious in view of Wiser. Claims 2-5 and 13 depend directly from independent claims 1 and 12, respectively, and thus include all the recitations of their respective independent claims. Therefore, dependent claims 2-5 and 13 are patentable for at least those reasons given above for independent claims 1 and 12. Accordingly, Applicants respectfully submit that the rejections of claims 1-5 and 11-13 are overcome.

Newly Added Claims

Applicants have added new claims 14 and 15 to more particularly define aspects of the present application. The new claims include no new matter and are fully supported by the

Appl. No.: 09/977,895
Filed: October 15, 2001
Response Dated 03/29/2007

specification and the drawings of the present application.

Accordingly, it is believed that the new claims are in condition for allowance.

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CONCLUSION

In view of the amendments and the remarks presented above, it is respectfully submitted that all of the claims are in condition for allowance. Accordingly, a Notice of Allowance is respectfully requested in due course. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application. It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON MARCH 29, 2007.
LEGAL01/13041654v1